

SUBCOMMITTEE NO. 4

Agenda

Senator Mark DeSaulnier, Chair
Senator Tom Harman
Senator Gloria Negrete McLeod



Thursday, April 29, 2010
11:00 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Brown

PART A

Item Number and Title

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Items to Be Heard

0690 California Emergency Management Agency..... 4

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Vote Only Items

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
	California Emergency Management Agency (0690)			
1	Tsunami Program	\$792,000	Federal	Approve
2	Earthquake Hazard Reduction Program	\$639,000	Federal	Approve
3	Antiterrorism Fund – April Finance Letter	\$2,000,000	Antiterrorism Fund	Approve

Vote Only Items – Issue Descriptions

California Emergency Management Agency (0690)

Issue 1 – Tsunami Program

The CalEMA requests an increase of \$245,000 in Federal Trust Fund authority for the Earthquake and Tsunami Program to reflect increased receipt of federal funds for this program. The CalEMA describes the purpose of the tsunami component of this program as including tsunami inundation modeling and mapping, planning and technical assistance to local jurisdictions in preparing plans for tsunami warning and response, public education about the tsunami hazard, and participation in the federal Tsunami Ready Program sponsored by National Oceanic and Atmospheric Administration's National Weather Service.

Issue 2 – Earthquake Hazard Reduction Program

The CalEMA requests an increase of \$639,000 in Federal Trust Fund authority for earthquake mitigation activities, including assessment of state buildings for seismic risk, creating an inventory of older, nonductile concrete buildings in the state that are at higher risk for damage in an earthquake, and providing training in support of the California Earthquake Authority Household Rebate Program which provides rebates for homeowners doing earthquake mitigation on their homes.

Issue 3 – Antiterrorism Fund – April Finance Letter

The CalEMA requests \$2 million from the Antiterrorism Fund to provide reimbursements to local agencies for antiterrorism training and supplemental funding to the State Terrorism Threat Assessment System (STTAS). Specifically, CalEMA proposes to allocate \$1 million evenly to the Commission on Peace Officer Standards and Training (POST) and the California Fire Fighter Joint Apprenticeship Center for training California first responders on how to prepare for, prevent, and respond to a terrorist attack. The remaining \$1 million will be evenly allocated to California's STTAS five fusion centers which are a combination of federal, state, and local first responders and law enforcement personnel who support the gathering, processing, analysis, and dissemination of information regarding potential threats to the public safety, including terrorist threats. The Antiterrorism Fund was created in 2002 from legislation (AB 1759 – Wesson, Chapter 38, Statutes of 2002) that required the Department of Motor Vehicles to issue special license plates memorializing individuals killed or injured during the terrorist attacks of September 11, 2001. Eighty-five percent of the revenue from these plates are deposited into the Antiterrorism Fund, half of which is administered by CalEMA to support antiterrorism activities including training, prevention, detection, and response.

California Emergency Management Agency (0690)

Departmental Overview and Mission. The principal mission of the California Emergency Management Agency (CalEMA) is to reduce the state's vulnerability to hazards and crimes through emergency management and criminal justice programs.

The CalEMA was created by Assembly Bill 38 (Chapter 372, Statutes of 2008) as an independent entity reporting directly to the Governor. The CalEMA was formed by merging two departments, the Office of Emergency Services (OES) and the Office of Homeland Security (OHS).

During an emergency, CalEMA functions as the Governor's immediate staff to coordinate the state's responsibilities under the Emergency Services Act. It also acts as the conduit for federal assistance through natural disaster grants and federal agency support. Additionally, CalEMA is responsible for the development and coordination of a comprehensive state strategy related to all hazards that includes prevention, preparedness, and response, and recovery.

Further, CalEMA also provides financial and technical assistance to local governments, state agencies, and the private sector for public safety and victim services.

Budget Overview. The department has a 2010-11 budget of \$1.4 billion, more than \$1 billion of which is funded through federal funds. The department's budget includes about \$125 million from the General Fund. The CalEMA has about 620 staff positions.

Issue 1 – Proposition 1B Projects – Oversight Issue

Background. Proposition 1B was approved by voters in 2006 and authorized the state to sell about \$20 billion of general obligation bonds to fund various transportation projects. Of this total, \$1.1 billion was provided for transit security (\$1 billion) and port security (\$100 million).

- **Transit Security (\$1 billion).** Proposition 1B created the Transit System Safety, Security, and Disaster Response Account and provided \$1 billion for this account. The purpose of the account is to provide resources for capital projects that provide increased protection against security and safety threats and to increase the capacity of transit operators to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster.
- **Port Security (\$100 million).** Proposition 1B also provided \$100 million to the Office of Emergency Services (predecessor to CalEMA) to be allocated as grants for port, harbor, and ferry terminal security improvement projects. Under the proposition, the grants were to be used only for publicly owned facilities and could be used for such

projects as video surveillance equipment, explosive, radiation, and chemical detection technology, and vehicle screening equipment. The proposition requires the department to report to the Legislature on March 1 of each year on the manner in which these funds were expended during the fiscal year.

The CalEMA is the administering agency for these programs. As such, the department has responsibility for reviewing and approving project proposals, providing technical assistance to funding recipients, processing reimbursement requests, and verifying project progress and completion. Some of the funding programs provide payments on a reimbursement basis. This means that funding is provided when the recipient submits a claim to CalEMA demonstrating project expenditures.

The CalEMA reports that as of April 20, 2010, \$297 million of Prop 1B funding has been appropriated, and \$126 million has expended to date. In addition, \$100 million was appropriated in the 2009-10 Budget Act for the transit program. However, the CalEMA reports that the award process for the current year appropriation has not yet been completed. The following table summarizes those allocations and expenditures made to date.

Proposition 1B: CalEMA Administered Program Expenditures

(In millions of dollars)

	Allotment	Payment	Balance
2007-08	\$ 140.0	\$ 84.4	\$ 55.6
<i>Transit (6061)</i>	<i>\$ 100.0</i>	<i>\$ 83.3</i>	<i>\$ 16.7</i>
Heavy Rail	\$ 15.0	\$ 0.9	\$ 14.1
Mass Transit	\$ 60.0	\$ 57.4	\$ 2.6
Waterborne	\$ 25.0	\$ 25.0	\$ -
<i>Port (6073)</i>	<i>\$ 40.0</i>	<i>\$ 1.0</i>	<i>\$ 39.0</i>
2008-09	\$ 157.0	\$ 43.0	\$ 114.0
<i>Transit (6061)</i>	<i>\$ 100.0</i>	<i>\$ 43.0</i>	<i>\$ 57.0</i>
Heavy Rail	\$ 15.0	\$ 4.5	\$ 10.5
Mass Transit	\$ 60.0	\$ 13.5	\$ 46.5
Waterborne	\$ 25.0	\$ 25.0	\$ -
<i>Port (6073)</i>	<i>\$ 57.0</i>	<i>\$ -</i>	<i>\$ 57.0</i>
Totals	\$ 297.0	\$ 127.4	\$ 169.6
<i>Transit</i>	<i>\$ 200.0</i>	<i>\$ 126.3</i>	<i>\$ 73.7</i>
<i>Port</i>	<i>\$ 97.0</i>	<i>\$ 1.0</i>	<i>\$ 96.0</i>

** Note: The 2009-10 Budget Act appropriates an additional \$100 million for transit security that has not yet been awarded.*

Staff Comments. To date, about 43 percent of the 2007-08 and 2008-09 budget appropriations for Proposition 1B projects administered by CalEMA have been expended. The department reports that less than half of the allotments have been expended to date because (1) many projects are funded on a reimbursement basis, and (2) these are primarily capital projects that are still in the planning and evaluation, rather than construction, phases.

The California Department of Transportation has a document on its website (http://www.caltrans.ca.gov/hq/transprog/ibond/tube_feb2010.pdf) that demonstrates the

progress the agencies responsible for allocating Prop 1B funding have made to date in allocating Prop 1B funds. As of February 26, 2010, \$7.2 billion of the \$12.6 billion (57 percent) appropriated by the Legislature to date has been allocated by the administrative agencies statewide. According to this report, CalEMA's allocation rate is lower at 35 percent.

In reviewing this proposal, the committee may wish to address the following questions to the Board.

- What types of projects are being undertaken with these funds?
- Why has only \$1 million of the \$97 million appropriated for port security been expended in three years?
- Why has CalEMA allocated a significantly lower percentage of appropriated Prop 1B funds than other administering agencies?
- When will CalEMA have an allocation plan for the 2009-10 appropriation of \$100 million for transit security?

Issue 2 – ARRA Stimulus Funds – Oversight Issue

Background. The CalEMA is the state administering agency for three federal stimulus grants provided under the American Recovery and Reinvestment Act (ARRA). These three grant programs total about \$150 million for public safety and victims assistance related purposes. The three programs are described below.

- **Byrne/JAG (\$135 million).** The Edward Byrne Justice Assistance Grant (Byrne/JAG) Program is administered by the federal Bureau of Justice Assistance and provides states, tribes, and local jurisdictions with funding to support a range of program areas including law enforcement, prosecution and court, prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, technology improvement, and crime victim and witness initiatives.
- **Violence Against Women Act (\$12.0 million).** The Violence Against Women Act (VAWA) was adopted by Congress in 1994 and is designed to improve criminal justice responses to domestic violence, sexual assault, and stalking, as well as to increase the availability of services to victims of these crimes.
- **Victims of Crime Act (\$2.8 million).** The Victims of Crime Act (VOCA) was adopted by Congress in 1984 and provides funding to improve the accessibility and quality of services for victims of crime. Funds go to support victim services and compensation programs, including crisis intervention, counseling, emergency shelters, and victims advocacy.

In the 2009-10 Budget Act, the Legislature specified how the \$135 million in Byrne/JAG ARRA funds were to be allocated among different programs. Most of the funding was provided for three programs designed to reduce crime and recidivism. Specifically, almost three-quarters of the funding was provided for substance abuse treatment (\$45 million), more effective, evidence-based county probation programs (\$45 million), and reentry courts for parole violators (\$10 million). The remaining \$35 million was provided for anti-drug abuse and methamphetamine enforcement, human and firearm trafficking, gang intelligence, victim notification, and district attorney training programs. The table below summarizes the amount of funding provided for each of these program areas.

In January, the CalEMA testified before the budget committee that \$3.4 million of the total \$150 million in ARRA funds had been reimbursed by CalEMA to local recipients at that time. The department has provided the committee an update that as of April 13, 2010, \$5.5 million has been expended by the agency. The table below shows the ARRA programs, the total funding provided for each, and the amounts expended as of January as well as the most recent update provided by the department.

Comparison of CalEMA ARRA Expenditures as of January and April, 2010

(In millions of dollars)

Program	ARRA Award	Expenditures (1/19/10)	Expenditures (4/13/10)
Byrne/JAG	\$135.2	\$0	\$0
Substance abuse treatment	\$45.0	\$0	\$0
Evidence-based probation	\$45.0	\$0	\$0
Anti-drug abuse enforcement	\$19.8	\$0	\$0
Reentry courts	\$10.0	\$0	\$0
Methamphetamine enforcement	\$4.5	\$0	\$0
Human trafficking	\$3.8	\$0	\$0
Firearm trafficking	\$3.3	\$0	\$0
Gang intelligence	\$2.1	\$0	\$0
Victim notification	\$1.5	\$0	\$0
District attorney training	\$0.2	\$0	\$0
VAWA	\$12.0	\$3.0	\$4.2
VOCA	\$2.8	\$0.4	\$1.2
Totals	\$150.0	\$3.4	\$5.5

The CalEMA reports that almost all of these programs are in the award stage even if expenditures have not yet been made. The exceptions are the anti-human trafficking task force and reentry court programs which are currently in the competitive review process. Also, twenty counties have requested and been granted time extensions for the evidence-based probation program.

The CalEMA reports that only a small share of the ARRA funds have been distributed to locals to date primarily because (1) a couple of the programs – specifically, the probation and reentry court programs – are new and have taken some time to develop program guidelines and application criteria, (2) CalEMA established the programs as two-year expenditure programs, and (3) the ARRA dollars are provided as reimbursements, meaning that local recipients have to incur costs before receiving the federal funding from CalEMA.

The CalEMA also reports that the Bureau of State Audits (BSA) is currently conducting an audit of its administration of ARRA funds. According to CalEMA, the BSA audit will be released sometime in the next several weeks.

Staff Comments. It is disappointing that less than 4 percent of the stimulus dollars have been expended ten months into the fiscal year. While several of the programs are new efforts that have legitimately taken some time to develop, others are expansion of existing programs, such as the funding for substance abuse treatment and anti-drug abuse enforcement. Ongoing delays getting these funds to local recipients necessarily delays any benefit of the stimulus package.

Annual Byrne/JAG Allocations. In addition to the ARRA Byrne/JAG funds, the CalEMA also received about \$34 million in its annual Byrne/JAG allocation. The process for allocating these annual federal funds differs from the process the Legislature used to allocate the ARRA Byrne/JAG funds. Current law (Penal Code Section 13813) provides the California Council on Criminal Justice (CCCJ) with the authority to determine the allocation

plan for federal grants. The CalEMA staffs CCCJ and provides a recommended allocation plan which CCCJ can approve or revise. The CCCJ is made up of 37 members representing a broad array of criminal justice stakeholders.

As described above, the Byrne/JAG funding can be used for a broad array of criminal justice purposes with at least 29 different allowable purpose areas identified. Other states have used Byrne/JAG funding for a wide variety of purposes, with many states employing a mix of enforcement, prevention, and treatment efforts targeting different types of offenders and crimes. For example, several states have used these funds for programs including drug and mental health courts, reentry initiatives, domestic violence programs, community policing, school-based prevention programs, law enforcement technology upgrades, crime labs and analysis, and drug task forces.

The CalEMA-recommended and CCCJ-approved plan for the annual Byrne/JAG allocation provided almost all of the funding to law enforcement agencies for enforcement of drug crimes in 2009-10. The figure below shows how the \$34 million in annual Byrne/JAG funding was allocated in the current year.

Allocation of Annual Byrne/JAG Federal Funds 2009-10

Program	Purpose	Allocation
Anti-drug abuse enforcement	Combat manufacturing, distribution, and drug sales through interagency coordination	\$25,663,716
Crackdown multi-community task force	Combat inter-jurisdictional and intra-state drug trafficking	\$3,900,000
Marijuana suppression	Enforce state and local controlled substances laws	\$2,200,000
Drug endangered children training	Training to coordinate efforts of law enforcement and child protective services to provide appropriate response when children found in home with drugs	\$990,000
California public safety procurement	Obtain equipment and land for counter-drug, homeland security, and emergency response activities	\$745,869
California courts protective order registry	Development of automated system to track all protective and restraining orders	\$610,369
Campaign against marijuana planting (CAMP)	Support Department of Justice-led task force to eradicate marijuana cultivation and trafficking	\$100,000
Total		\$34,209,954

The CalEMA provides an annual report to the Legislature which identifies all of the public safety and victims-related grants that it allocates. The report identifies the amounts allocated to individual recipients, as well as aggregates outcome measures associated with the grant. The table below includes some of the key performance statistics collected by CalEMA for its Byrne/JAG funded programs. (The statistics reflect 2008-09 metrics, the most recent data available.)

2008-09 Byrne/JAG Performance Statistics

Program	Key Performance Statistics
Anti-drug abuse enforcement	Convictions – 3,408 Labs discovered – 159 Cocaine/methamphetamines/heroin seized – 6,767 lbs Processed marijuana seized – 167,604 lbs
Crackdown multi-community task force	Special agents assigned – 80 Weapons seized – 489 Cash and property seized - \$13,439,698
Marijuana suppression	None – no funding in 2008-9
Drug endangered children training	None – one-time funding in 2009-10
California public safety procurement	Law enforcement agencies enrolled – 363 Equipment items transferred or purchased – 90,751
California courts protective order registry	Courts participating - 20
Campaign against marijuana planting	Raids on marijuana plantations – 665 Marijuana plants seized – 4,463,917

Taken from Joint Legislative Budget Committee Report, January 2010 www.oes.ca.gov

In reviewing CalEMA's performance administering the ARRA funds, the committee may wish to address the following questions to the department.

- What efforts has CalEMA made to accelerate the release of federal funds since it last testified in front of the committee in January? What can the department do to accelerate the release of federal stimulus funds going forward?
- How much of the stimulus funds will be expended by CalEMA by the end of the current fiscal year? When will these stimulus funds be fully out of the door?
- Given wide range of allowed Byrne/JAG uses, how does CalEMA prioritize what types of programs should receive funding on an annual basis?
- How does the department determine what are the "right" metrics with which to measure the performance of each Byrne/JAG program? Are these the same metrics that will be used to evaluate the ARRA programs?
- What is the status of CalEMA's allocation plan for the 2010-11 Byrne/JAG program?

Issue 3 – Federal JAG Interest

Background. The CalEMA received \$135.6 million in federal American Recovery and Reinvestment Act (ARRA) funds for the Justice Assistance Grant (Byrne/JAG) program in the 2009 stimulus package. The Legislature designated \$592,000 of this funding for CalEMA to retain for administration of the grant on a one-time basis.

Governor's Budget Request. The CalEMA requests \$800,000 in increased Federal Trust Fund expenditure authority to administer the ARRA Byrne/JAG funds for the next two years. The proposal does not create new positions but would provide funding for temporary help. The amount requested will come from the interest earned on the Byrne/JAG ARRA dollars.

	2010-11	2011-12
Federal Trust Fund	\$800,000	\$800,000
PY's	0.0	0.0

LAO Recommendation. The LAO notes that CalEMA has not been able to provide sufficient workload information to justify the requested funding increase. Thus, the LAO recommends the Legislature provide the same level of administrative funding as in the current year. Specifically, the LAO recommends reducing the Governor's budget request by \$208,000 (from \$800,000 to \$592,000), which would "free up" additional funds for local assistance grants.

Staff Comments. The CalEMA retains responsibility for ongoing reporting to the Federal government regarding administration of the Byrne/JAG funding, as well as reporting of program outcomes. Based on these responsibilities, it is appropriate that the department have some ongoing funding for administration.

However, it is notable that this funding is available because most of the stimulus dollars have remained at the state level accruing interest, and only a small share of the ARRA dollars have yet to be provided to local recipients.

In reviewing this proposal, the committee may wish to address the following questions to the department.

- How was the \$592,000 provided for state operations in the current year used?
- Does the department believe it can successfully administer these grants in the budget year at the level of funding recommended by the LAO - \$592,000?

Staff Recommendation. Adopt LAO recommendation of \$592,000 in additional federal fund authority for administering the ARRA Byrne/JAG program.

Issue 4 – Forensic Science Improvement Act

Background. The federal government provides states with grants under the Coverdell Forensic Science Improvement Act (FSIA). The purpose of this program is to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes, as well as reduce forensic science backlogs. In recent years, the CalEMA has awarded these federal funds to the State Department of Justice and 17 crime laboratories operated by local governments. These funds have been used for efforts related to accrediting crime labs, improving the quality of services provided, reducing backlogs, and providing education and training opportunities.

The CalEMA currently has budget authority for \$1.2 million (\$1.1 million for local assistance and \$93,000 for state operations) for this program.

Governor's Budget Request. The Governor's January budget requests an increase of \$608,000 in Federal Trust Fund authority for the FSIA due to an anticipated increase in federal funds from \$1.2 million to \$1.8 million.

Since the release of the Governor's budget in January, the CalEMA has received notice from the federal government that its total allotment of FSIA funds is likely to be \$2.7 million, significantly higher than previously anticipated. Based on this new information, CalEMA is requesting that the committee consider approving a higher level of expenditure authority - \$1.5 million – that would allow the department to expend the full amount of anticipated federal funds. The revised request provides about 12 percent of this increase for state operations for administering the grants.

	2010-11	2010-11
	January Request	Revised Request
Federal Trust Fund – local assistance	\$608,000	\$1,316,000
Federal Trust Fund – state operations	\$0	\$176,000
PY's	0.0	0.0

Staff Comments. Increasing the federal fund authority level is primarily a technical budgeting action to allow the department to fully expend the federal funds it receives. The key question is whether the committee believes the share of the additional funding going to state operations is appropriate and necessary for administration of the grant. Staff notes that the existing allocation for this program provides 8 percent of the funding for state operations, and the department has not provided an explanation for why this allocation rate would be insufficient for the additional funding being provided by the federal government. The proposal by CalEMA would increase the overall share of FSIA funding provided for state operations from 8 percent to 10 percent.

In reviewing the department's budget, it appears that, overall, about 5 percent of its federal grant funding is used for state operations for grant administration.

In reviewing this proposal, the committee may wish to address the following questions to the department.

- Why is the department requesting that 12 percent of the additional federal funding be provided for state administration when the current rate is 8 percent? For example, did the federal government change the responsibilities related to grant management of this program?
- How does the administration determine what the “right” amount of a federal grant should be used for state operations for purposes of overseeing the grant versus local assistance to the grant recipients?

Staff Recommendation. Approve increased federal fund authority of \$119,000 for state operations and \$1,373,000 for local assistance. This maintains the existing rate of 8 percent of the program funds going for state operations, as well as provides an additional \$57,000 for forensic labs compared to the administration’s revised request.

Issue 5 – Equality in Prevention and Services for Domestic Abuse Program

Background. The purpose of the Equality in Prevention Services for Domestic Abuse (EPSDA) program is to provide local assistance funding to existing domestic violence service providers to members of the gay, lesbian, bi-sexual, and transgender community who are victims of domestic violence. The program is funded by a \$23 fee for same sex couples who register as domestic partners.

Governor’s Budget Request. The CalEMA requests a reduction of \$75,000 in expenditure authority for the Equality in Prevention Services for Domestic Abuse (EPSDA) program to match anticipated current year revenue levels. This reduction includes a \$50,000 reduction in local assistance and a \$25,000 reduction in state operations for administration of the program. In 2007-08 and 2008-09, program funding was supplemented with additional funds from the Restitution Fund.

	2010-11
EPSDA Fund – local assistance	-\$50,000
EPSDA Fund – state operations	-\$25,000
PY's	0.0

Staff Comments. Staff notes that the proposed funding reduction would result in a total of \$108,000 in spending authority for this program in 2010-11. This includes \$38,000 (35 percent) for state operations and \$70,000 (65 percent) for local assistance. This is an unusually high percentage of grant funding to be retained for state operations and administration.

In reviewing this proposal, the committee may wish to address the following questions to the department.

- Why is the department requesting that 35 percent of this grant program be retained for administrative oversight?
- Would the department still be able to successfully administer this program with a more typical state operations rate of 5-10 percent?

Staff Recommendation. Approve total reduction of \$75,000 in expenditure authority to be consistent with anticipated revenues, but modify allocation of reduction with -\$53,000 for state operations and -\$22,000 for local assistance. This will result in just under 10 percent retained for state operations (\$10,000), and about 90 percent for local assistance going to domestic violence services (\$98,000). This action would provide \$28,000 more for direct domestic violence services than would have been provided under the Governor's budget proposal.